

MINUTES OF MEETING

Zoning Board of Appeals
December 13, 2004

Attendees:

Louis Lustenberger – Chair
Robert Bronnes
Bruce Clark
Arthur Semetis – Recording Secretary

The meeting was called to order at 8:00 p.m.

The Chair made a motion to accept the Meeting Minutes of the November 2004 meeting. The motion was seconded by Robert Bronnes, and approved by unanimous vote of the remaining members.

I. Douglas and Jill McClure, 25 North Dutcher Street (Sheet 5; Block 207; Lot 6A)

The appearance was made by Douglas McClure, an owner of the property. Robert Bronnes, a neighbor of the McClures, recused himself from voting on the application.

Mr. McClure informed the Board that the existing structure was non-conforming, and that a variance was required from Section 224-18 (lot requirement) to replace an existing porch in the rear with an open porch. He stated the existing porch was in poor condition. He added that the plan to be approved also provided for the addition of a bay window on one side of the structure at the kitchen.

Chairman Lustenberger commented that he had viewed the property and that he believed that the work to be performed would not change the character of the neighborhood.

Mr. Clark noted that four (4) adjoining houses on that street, including the applicants, had similar fronts. Mr. McClure indicated that there would be no change to the front of the structure. He stated that the adjoining properties had each made changes to the rears by the addition of decks, porches and other enclosures.

The Chair commented that the variance requested was relatively modest, would not change the appearance of the building, or make it any different than the adjoining structure.

A motion was made by the Chair to grant the variance. The motion was seconded by Bruce Clark, and approved by the vote of the three members.

II. James Lundy and Martha Chamberlain, East Clinton Avenue (Sheet 14; Block 223; Lots 15 and 15A)

The applicants seek a variance from Section 224-10 (width of lot and frontage). The zoning ordinance mandates a 85 foot wide front yard, and the frontage of the properties, as proposed, would have only been 66 feet each.

The applicants were represented by Richard Blancato, Esq. Mr. Blancato stated that a public hearing on the approval was scheduled before the Planning Board for January 5, 2005.

He stated that absent the combining of the lots, the structures could not be situated on the lots in accordance with the Village Code. He added that it was not economically feasible to combine the lots. He also stated that constructing one larger structure on the combined lots would yield an oversized structure out of character with the neighborhood.

Robert Munigle, residing at 23 East Clinton Avenue, noted that the Board had previously granted two (2) variances for this property, and he questioned the “impact” of the earlier approvals on the instant application.

The Chair responded that the applications were to be considered separately, and that the first application was limited to a flood plain consideration. The Chair continued, noting that the present application was much more of a visual exercise. He added that the earlier application impacted health concerns.

Ms. Barbara Denyer of 7 Dows Lane next commented in favor of granting the variance.

Mr. Blancato commented that constructing a “big monster house,” if the two lots were combined, would not be in keeping with the size of other structures on the street.

The Chair commented that in his view, granting the variance would not adversely affect the character of the neighborhood. He noted that this application presented an issue different than that presented by the first application which had been approved.

Mr. Clark next commented that he had voted to deny the first application and that he did not think that the application had “gotten better” because it was presented in pieces. However, it was agreed by all members of the Board that the Board was bound by the first determination.

Mr. Semetis stated that he was not inclined to grant the variance for a number of reasons. He stated that the applicable zoning ordinance requiring frontage of 85 feet could be met by consolidating the two (2) properties. These properties had always had only one

structure situated on the two (2) lots. He added that the variance was for pure economic reasons, to wit: to permit the applicants to maximize their profits. The applicants freely admitted that the dwellings were not going to be occupied by them or their immediate families. Mr. Semetis also stated that he was cognizant of the fact that numerous owners of the adjoining properties had spoken in opposition to the early application for a variance of the flood plain ordinance.

Lastly, Mr. Semetis stated that in seeking a twenty-five (25%) percent variance, the applicant did not establish that the pecuniary benefit to be reaped by them outweighed the detriment to the community at large.

Mr. Blancato responded that the Board had the power to grant variances to avoid a cookie cutter application of the Village Zoning Ordinance. He added that the applicants were entitled to “earn a profit.”

The Chair then made a motion to grant the variance. The motion was seconded by Robert Bronnes. The motion was then approved three to one, with Mr. Semetis casting the sole vote in opposition.

The meeting was then adjourned.